

REMARKS

At the time of this Office Action dated January 7, 2005, claims 1-14 were pending. In this Amendment, claims 1, 2, 5, 6, 9, 10, 11 and 12 have been amended, and claims 4, 7, 8, 13 and 14 cancelled. Care has been exercised to avoid the introduction of new matter. Specifically, claims 1 and 12 have been amended to include the limitation recited in claim 4. Claims 1, 9 and 12 have also been amended to include the limitation "position information showing a current position of the terminal," adequate descriptive support of which can be found on, for example, page 19, line 24 to page 20, line 8 of the specification. Claim 5 has been amended to be dependent on claim 1. Claim 2 has been amended only to improve wording. The amendments of claims 1, 6, 9, 10 and 11 further include broadening amendments to avoid 35 U.S.C. §112, paragraph 6 treatment.

In addition, the title of the invention has been amended.

Drawings.

The Examiner has objected to the drawings because the submitted drawings are illustrated in Japanese language. In response, it is noted that the formal drawings (English version) have already been submitted on January 3, 2002. Attached herewith are copies of the Transmittal of Formal Drawings, formal drawings, and stamped return postcard acknowledgement. Applicant hereby respectfully requests that the Examiner clarify the record by acknowledging receipt of the formal drawings, and withdraw this objection.

Claims 1-4, 7-9 and 12-14 have been rejected under 35 U.S.C. §102(e) as being anticipated by Mandalia.

In the statement of the rejection, the Examiner asserted that Mandalia discloses a stand-alone internet mailbox for cable subscribers identically corresponding to what is claimed.

It is well established precedent that the factual determination of lack of novelty under 35 U.S.C. §102 requires the identical disclosure in a single reference of each element of the claimed invention, such that the identically claimed invention is placed into the possession of one having ordinary skill in the art. *See EMI Group N. Am., Inc. v. Cypress Semiconductor Corp.*, 268 F.3d 1342, 60 USPQ2d 1423 (Fed. Cir. 2001); *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F. 3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994). Applicant submits that Mandalia does not disclose the claimed invention recited in independent claims 1, 9 and 12, as amended, within the meaning of 35 U.S.C. §102. It is noted that the rejection of claims 7, 8, 13 and 14 has been rendered moot by cancellation of those claims.

Applicant specifically submits that Mandalia does not disclose, among other things, “position information showing a current position of the terminal,” recited in independent claims 1, 9 and 12. By managing a current position of a terminal, a broadcast system, an e-mail integrated server and an e-mail delivery method in those claims can deliver e-mail to a mobile terminal which move with its user. On the other hand, Mandalia is silent on the limitation of acquiring “position information showing a current position,” recited in claims 1, 9 and 12. Thus, it is not possible for Mandalia system to send e-mail to a mobile terminal which moves with its user.

Accordingly, it is submitted that Mandalia does not disclose a broadcasting system, an e-mail integrated server and an e-mail delivery method including all the limitations recited in claims 1, 9 and 12, respectively, and that claims 1, 9 and 12 are not anticipated by the reference. In addition, dependent claims 2 and 3 are also patentable at least because those claims include all the limitations recited in independent claim 1. Applicant, therefore, respectfully solicits withdrawal of the rejection of the claims and favorable consideration thereof.

Claims 5, 6, 10 and 11 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Mandalia, in view of Lee et al.

In response, it is submitted that claims 5, 6, 10 and 11 would not have been obvious over the proposed combination of Mandalia and Lee et al., even if such combination were assumed to be proper (only for this response), at least because those claims recite all the limitations recited in independent claims 1 and 9, respectively. That is, Mandalia does not teach all the limitations recited in independent claims 1 and 9 for the reason set forth above, and Lee et al. does not cure this deficiency of Mandalia. Applicant, therefore, respectfully solicits withdrawal of this rejection and favorable consideration thereof.

Conclusion.

It should, therefore, be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

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including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY-LLP

A handwritten signature in black ink, appearing to read "Tomoki Tanida", written over the printed name.

Tomoki Tanida

Recognition under 37 C.F.R. 10.9(b)

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